Glossary Of Terms Used In Criminal Cases In Alaska

The Office of Victims' Rights receives many questions from crime victims about the meaning of various terms used by prosecutors, defense lawyers and judges who are involved in their cases. The following glossary of frequently used terms has been prepared to help victims better understand court proceedings, what is occurring in their case, and how it is progressing through the courts. It is not intended to be a complete overview of all legal terms crime victims may encounter, just those that are the most often heard in a typical criminal case.

Crime victims have many rights in this state. Those rights come into play at various stages of any criminal investigation or prosecution. For an explanation of those rights, the reader should look at "Listing of Your Rights" in this web site. If you would like clarification or more information, contact the Office of Victims' Rights.

http://www.officeofvictimsrights.legis.state.ak.us/ovrlisting.htm

"Aggravating Factors" - The reader should first review explanations of the terms "presumptive sentence" and "mitigating factors" in this document. The following are aggravating factors established by the legislature in Alaska statute 12.55.155(c), and may be considered by a judge who sentences a defendant convicted of a crime subject to presumptive sentencing:

> "(1) a person, other than an accomplice, sustained physical injury as a direct result of the defendant's conduct;
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> (2) the defendant's conduct during the commission of the offense manifested deliberate cruelty to another person;
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> (3) the defendant was the leader of a group of three or more persons who participated in the offense;
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> (4) the defendant employed a dangerous instrument in furtherance of the offense;
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> (5) the defendant knew or reasonably should have known that the victim of the offense was particularly vulnerable or incapable of resistance due to advanced age, disability, ill health, or extreme

youth or was for any other reason substantially incapable of exercising normal physical or mental powers of resistance;

(6) the defendant's conduct created a risk of imminent physical injury to three or more persons, other than accomplices;

(7) a prior felony conviction considered for the purpose of invoking the presumptive terms of this chapter was of a more serious class of offense than the present offense;

(8) the defendant's prior criminal history includes conduct involving aggravated or repeated instances of assaultive behavior;

(9) the defendant knew that the offense involved more than one victim;

(10) the conduct constituting the offense was among the most serious conduct included in the definition of the offense;

(11) the defendant committed the offense pursuant to an agreement that the defendant either pay or be paid for the commission of the offense, and the pecuniary incentive was beyond that inherent in the offense itself;

(12) the defendant was on release under AS 12.30.020 or 12.30.040 for another felony charge or conviction or for a misdemeanor charge or conviction having assault as a necessary element;

(13) the defendant knowingly directed the conduct constituting the offense at an active officer of the court or at an active or former judicial officer, prosecuting attorney, law enforcement officer, correctional employee, fire fighter, emergency medical technician, paramedic, ambulance attendant, or other emergency responder during or because of the exercise of official duties;

(14) the defendant was a member of an organized group of five or more persons, and the offense was committed to further the criminal objectives of the group;

(15) the defendant has three or more prior felony convictions;

(16) the defendant's criminal conduct was designed to obtain substantial pecuniary gain and the risk of prosecution and punishment for the conduct is slight;

(17) the offense was one of a continuing series of criminal offenses committed in furtherance of illegal business activities from which the defendant derives a major portion of the defendant's income;

(18) the offense was a felony

(A) specified in AS 11.41 and was committed against a spouse, a former spouse, or a member of the social unit comprised of those living together in the same dwelling as the defendant;

(B) specified in AS 11.41.410 - 11.41.458 and the defendant has engaged in the same or other conduct prohibited by a provision of AS 11.41.410 - 11.41.460 involving the same or another victim; or

(C) specified in AS 11.41 that is a crime involving domestic violence and was committed in the physical presence or hearing of a child under 16 years of age who was, at the time of the offense, living within the residence of the victim, the residence of the perpetrator, or the residence where the crime involving domestic violence occurred;

(19) the defendant's prior criminal history includes an adjudication as a delinquent for conduct that would have been a felony if committed by an adult;

(20) the defendant was on furlough under AS 33.30 or on parole or probation for another felony charge or conviction that would be considered a prior felony conviction under AS 12.55.145 (a)(1)(B);

(21) the defendant has a criminal history of repeated instances of conduct violative of criminal laws, whether punishable as felonies or misdemeanors, similar in nature to the offense for which the defendant is being sentenced under this section;

(22) the defendant knowingly directed the conduct constituting the offense at a victim because of that person's race, sex, color, creed, physical or mental disability, ancestry, or national origin;

(23) the defendant is convicted of an offense specified in AS 11.71 and

(A) the offense involved the delivery of a controlled substance under circumstances manifesting an intent to distribute the substance as part of a commercial enterprise; or

(B) at the time of the conduct resulting in the conviction, the defendant was caring for or assisting in the care of a child under 10 years of age;

(24) the defendant is convicted of an offense specified in AS 11.71 and the offense involved the transportation of controlled substances into the state;

(25) the defendant is convicted of an offense specified in AS 11.71 and the offense involved large quantities of a controlled substance;

(26) the defendant is convicted of an offense specified in AS 11.71 and the offense involved the distribution of a controlled substance that had been adulterated with a toxic substance;

(27) the defendant, being 18 years of age or older,

(A) is legally accountable under AS 11.16.110_(2) for the conduct of a person who, at the time the offense was committed, was under 18 years of age and at least three years younger than the defendant; or

(B) is aided or abetted in planning or committing the offense by a person who, at the time the offense was committed, was under 18 years of age and at least three years younger than the defendant;

(28) the victim of the offense is a person who provided testimony or evidence related to a prior offense committed by the defendant;

(29) the defendant committed the offense for the benefit of, at the direction of, or in association with a criminal street gang;

(30) the defendant is convicted of an offense specified in AS 11.41.410 - 11.41.455, and the defendant knowingly supplied alcohol or a controlled substance to the victim in furtherance of the offense with the intent to make the victim incapacitated; in this paragraph, "incapacitated" has the meaning given in AS 11.41.470.”

"Arraignment" - Within twenty-four hours following a person's arrest the arrestee must be taken before a judge for an initial arraignment if the arrestee remains in custody. Generally speaking, the purpose of the initial arraignment is to

a. inform the person of the pending charges and to provide a copy of any charging documents filed by the prosecutor. Once the person is charged by the prosecutor the person is referred to as the defendant;
b. inform the defendant of his right to retain counsel and of the right to have an attorney appointed to represent him without cost if he can't afford to hire one;
c. consider whether to release the defendant on bail pending further proceedings in the case.

After a defendant has been indicted by the grand jury, the defendant is again arraigned. The purpose of the post indictment arraignment is essentially the same as the initial arraignment that occurs shortly after the charges are filed but with some important differences. At this stage the judge will inform the defendant of the grand jury's decision and will call upon him or her to enter a plea. Most defendants will enter a "not guilty" plea, which in turn will give rise to the need to have a trial.

"Bail" - A judge has the authority to release a criminal defendant from custody on bail. Bail is money or a bond posted with the clerk of the court by the defendant, or a bail bondsman on the defendant's behalf, in order to ensure that a defendant who has been released prior to trial will appear for the trial. If a bail bondsman posts the bail, he will charge the defendant a premium, usually 10% of the amount of the bond, and will require the balance to be secured by the defendant who may be asked to assign or pledge property to the bail bondsman. If the defendant fails to appear for court, or violates conditions of release imposed by a judge as a condition of getting out of jail, the bail or bond that has been posted may be forfeited to the court. This is done to penalize the defendant as well as to compensate the state for the added expense of searching for and re-arresting the fugitive defendant. A judge may consider a request to reduce a defendant's bail at the initial arraignment or at a bail hearing scheduled at a later time. Instead of requiring a defendant to post money or a bond, a judge may release a defendant on his promise to appear for subsequent proceedings imposing whatever conditions of release the judge feels will assure that a victim and society are protected and that the defendant stays out of trouble while the charges work their way through the court. Victims have certain rights to have their concerns made known to a judge at a bail hearing and to have those rights taken into account by the judge in setting bail. See "Listing of Your Rights."

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"Committing Magistrate" - The committing magistrate (sometimes also referred to as the magistrate) is the on call judge who is on duty 24-hours a day in most large cities in Alaska. The magistrate considers applications for search and arrest warrants from police and prosecutors, applications from domestic violence victims for the issuance of protective orders, and other important legal matters. Shortly following the arrest of a suspect, the arrestee is usually transported by the arresting officer before the committing magistrate who will decide whether to remand the defendant to custody pending his arraignment. It is usually at this stage when the committing magistrate decides whether to set bail, and if so how much bail, as well as conditions of release.

"Complaint" - A complaint is a written statement of the essential facts constituting the offense charged. The complaint must be signed under oath or affirmation by the person who makes the allegations in the complaint.

"Continuance" – This term is used by lawyers to refer to postponements in court hearings and trials. The reader should also review the explanation of the term "speedy trial rule" in this document.

"Defendant" - The term "defendant" or 'criminal defendant" refers to the person accused of a crime, regardless of whether it is a felony or misdemeanor offense. If more than one defendant is charged with the same crime, each defendant is referred to as a co-defendant.

"Defense Attorney" - The attorney who represents the defendant. A defendant has the right to retain the attorney of their choice at their expense. In most criminal cases a defendant who cannot afford an attorney has a right to appointed counsel without charge. Most indigent defendants in this state who are charged with violations of Alaska law are represented by attorneys from either the Alaska Public Defender's Agency or the Office of Public Advocacy.

"Discovery" - The purpose of any police investigation is to identify the person or persons who committed the offense and to gather evidence of their complicity in the crime for later presentation to the jury at trial. Investigations usually include interviews with witnesses and suspects, crime scene searches and photographs, the results of tests done on physical evidence submitted to a crime lab for forensic analysis, evidence recovered during search warrant executions, and so on. As an investigation unfolds, police will prepare police reports to document their findings and the progress, or lack of it, in the case. Frequently, police officers will seek assistance and legal advice from prosecutors during an investigation and will disclose to them evidence and information about the ongoing investigation. Because this information is otherwise confidential by law, it is not available to the public, the suspect or his attorney. However, once a

criminal charge is filed, the defendant and his attorney are now permitted by law to obtain access to virtually the entire police case file including copies of police and lab reports, photographs, witnesses statements, statements of expert witnesses, copies of documents seized through search warrants, physical inspection of evidence seized by police, and so forth. All of this information is generally known as the case "discovery" material. Alaska courts have ruled that the prosecutor has no reciprocal right under the law to obtain discovery material from the defense.

"Dismissal" - An oral or written notice to the court and the defendant by the prosecutor which declares that the prosecution has terminated. If the defendant is in custody, he or she will be released on that charge upon dismissal of the case. If bail has been posted, it will be exonerated or returned to the person who posted it.

"Expert Witness" - Generally, witnesses (sometimes referred to as lay witnesses) are only permitted by the trial judge to testify to events about which they have personal knowledge. They are not permitted to offer their opinion about the guilt or innocence of the defendant. In contrast, an expert witness is a person who by training or experience is particularly knowledgeable in a specialized field or discipline. If the party offering the expert witness can demonstrate the witnesses' expertise to the trial judge, the expert witnesses will be permitted to offer and explain their opinion about matters in controversy in the trial. This is permitted as a means of assisting jurors understand evidence that is generally outside their collective life experiences.

"Felony" - All crimes in Alaska are either felonies or misdemeanor offenses. Generally speaking, what distinguishes between the two is the possible punishment upon conviction. If a crime is punishable by possible imprisonment for a period greater than one year it is classified as a felony. There are four categories of felony crimes in Alaska: Unclassified and Class A, B, and C felonies. The Unclassified felony is the most serious and provides for the greatest sentence while the Class C felony is the least serious. Some examples of felony crimes are murder, manslaughter, burglary, robbery, sexual assault and abuse, serious weapons offenses, kidnapping and aggravated assaults and thefts to name a few. All felonies also provide for imposition of a fine in addition to incarceration. The reader should also review the explanation of the term "misdemeanor" in this document.

"Grand Jury" - In Alaska, the grand jury is an independent investigative and accusatory body consisting of 18 citizens who are selected at random from voting, hunting, fishing, PFD and similar rosters. They generally serve for a period of 90 days. Their function is to act as a filter or screen between the government and the people who are governed in order to decide whether sufficient credible evidence exists to require a person to stand trial on a felony charge. If a person is charged with

a misdemeanor instead of a felony, their case will not be presented to a grand jury. Instead, a prosecutor files a "Complaint" or "Information" which alleges the crime. Since the issue before the grand jury is not the final question regarding the guilt or innocence of the accused, but simply the *probability* of guilt, the standard of proof which must be sustained by the prosecutor is considerably less than that required by the jury to convict the defendant at trial. In short, an indictment may be found only upon the concurrence of a majority of the grand jurors who agree that, if all the evidence they hear is taken together, and if that evidence is unexplained or uncontradicted at trial, that trial jury would convict the defendant. If they so decide, they return what's called a "true bill" of indictment. If a majority fail to reach an agreement on that issue, or decide that the evidence presented would not warrant a conviction of the accused at trial, they are required by law to return a "not true' bill whereupon the charges against the defendant are permanently dismissed and if in custody he is released.

"Guilty Plea" - A defendant charged with any crime may plead guilty, not guilty, or nolo contendere; a plea of nolo contendere is sometimes referred to as a no contest plea. Before a judge accepts a guilty or no contest plea the court is required to personally question the defendant on the record to insure that the plea is offered freely and voluntarily. This is because when a defendant enters such a plea he or she permanently forfeits a number of very important legal rights. Some examples are the right to remain silent, the right to a jury trial, the right to the presumption of innocence, and other similar rights. If a sentence or other agreement is involved as part of the plea, the lawyers are required to disclose the terms of it to the court. Plea agreements are often referred to as "plea bargains" because the state frequently offers some concession to the defendant in exchange for the plea. Concessions may involve the dropping of charges, an agreement to not file additional charges against the defendant or someone else, an agreement to serve a certain sentence, and so forth. The court may accept or reject the terms of any plea agreement but in practice the court accepts most of them. Frequently a defendant will decide to plead nolo contendere instead of guilty if there is the possibility of a civil lawsuit or for other personal reasons. This is because, unlike a guilty plea, a plea of nolo contendere is not considered a legally binding admission in a civil case. As a legal matter in a criminal case, a plea of guilty or nolo contendere is identical. Either is a complete admission to all the elements of the crime charged and subjects the defendant to being sentenced by the judge. Victims have certain rights to be consulted by the prosecutor and have their concerns made known to a judge when a plea agreement is involved as part of the entry of a plea by the defendant. See "Listing of Your Rights" elsewhere in this web site.

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"Hearings" - A term used by lawyers and judges to refer to a formal court proceeding that occurs in a courtroom and is open to the public. Those in attendance in criminal cases are the prosecutor, the defense attorney, the defendant and the judge. Spectators are also frequently present. Generally, the parties address important issues of law or fact as well as scheduling matters. Unlike other states, where a court reporter is used, in Alaska all hearings are electronically recorded. Anyone may obtain an audiocassette of any public hearing by paying a nominal cost to the court.

"Indictment" - A formal, written and signed accusation of crime made by a group of citizens who evaluate sworn testimony from witnesses subpoenaed by the prosecutor during a closed hearing. The reader should also review the explanation of the term "grand jury" in this document.

"Jury Instructions" – Upon the conclusion of any criminal jury trial, the judge will inform the jurors about the laws that are applicable to the case. This occurs just before they retire to the jury room where they will evaluate the arguments of the lawyers and the evidence presented by them during the trial as they attempt to reach a unanimous verdict. The judge will do so by reading (what are referred to as) "instructions" to all the jurors as a group. This occurs in open court, and in the presence of the prosecutor, the defense attorney and the defendant. The instructions are the pertinent principles of law applicable to the case. If a question arises by a juror during the course of deliberations, the judge may provide additional instructions to them with the knowledge and consent of the prosecutor, the defense attorney, and the defendant.

"Magistrate" - The reader should review the meaning of the term "committing magistrate" in this document.

"Misdemeanor" - If a crime carries a possible sentence of less than a year it is called a misdemeanor. There are two levels of misdemeanor offenses: Class A and Class B misdemeanors. Some examples of misdemeanor crimes are thefts involving value of under $500, assaults which do not involve the use of weapons or serious physical injury, minor weapons offenses, and driving while intoxicated to name a few. Many misdemeanors also provide for imposition of a fine in addition to incarceration. The reader should also review the explanation of the term "felony" in this document.

"Mitigating Factors" - The reader should first review explanations of the terms "presumptive sentence" and "aggravating factors" in this document. The following are mitigating factors established by the legislature in Alaska statute

12.55.155(d), and may be considered by a judge who sentences a defendant convicted of a crime subject to presumptive sentencing:

> "(1) the offense was principally accomplished by another person, and the defendant manifested extreme caution or sincere concern for the safety or well-being of the victim;
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> (2) the defendant, although an accomplice, played only a minor role in the commission of the offense;
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> (3) the defendant committed the offense under some degree of duress, coercion, threat, or compulsion insufficient to constitute a complete defense, but which significantly affected the defendant's conduct;
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> (4) the conduct of a youthful defendant was substantially influenced by another person more mature than the defendant;
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> (5) the conduct of an aged defendant was substantially a product of physical or mental infirmities resulting from the defendant's age;
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> (6) in a conviction for assault under AS 11.41.200_- 11.41.220, the defendant acted with serious provocation from the victim;
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> (7) except in the case of a crime defined by AS 11.41.410_- 11.41.470, the victim provoked the crime to a significant degree;
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> (8) the conduct constituting the offense was among the least serious conduct included in the definition of the offense;
>
> (9) before the defendant knew that the criminal conduct had been discovered, the defendant fully compensated or made a good faith effort to fully compensate the victim of the defendant's criminal conduct for any damage or injury sustained;
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> (10) the defendant was motivated to commit the offense solely by an overwhelming compulsion to provide for emergency necessities for the defendant's immediate family;
>
> (11) the defendant assisted authorities to detect, apprehend, or prosecute other persons who committed an offense;
>
> (12) the facts surrounding the commission of the offense and any previous offenses by the defendant establish that the harm caused by

the defendant's conduct is consistently minor and inconsistent with the imposition of a substantial period of imprisonment;

(13) the defendant is convicted of an offense specified in AS 11.71 and the offense involved small quantities of a controlled substance;

(14) the defendant is convicted of an offense specified in AS 11.71 and the offense involved the distribution of a controlled substance, other than a schedule IA controlled substance, to a personal acquaintance who is 19 years of age or older for no profit;

(15) the defendant is convicted of an offense specified in AS 11.71 and the offense involved the possession of a small amount of a controlled substance for personal use in the defendant's home;

(16) in a conviction for assault or attempted assault or for homicide or attempted homicide, the defendant acted in response to domestic violence perpetrated by the victim against the defendant and the domestic violence consisted of aggravated or repeated instances of assaultive behavior."

"No Contest Plea" – See "Guilty plea"

"Parole" – The conditional release from custody of a convict after actually serving part of a sentence in a criminal case. Because the parolee is deemed to be serving his or her sentence outside the prison facility, their rights are greatly restricted and limited. A parolee is usually under the supervision of a parole officer employed by the Alaska Department of Corrections. Laws determine parole eligibility and the granting, denying, revoking and supervision of parolees rests with the Alaska Parole Board. The Parole Board is a State of Alaska administrative body empowered by law to decide whether inmates will be released from prison before completion of their sentences.

"Peremptory Challenges" – The legal right of the prosecutor and the defense attorney to excuse a prospective juror in a trail without stating any reason for the excusal. In Alaska, each side is entitled to 10 peremptory challenges which are exercised during the jury selection process at the beginning of a trial.

"Personal Recognizance" – See "Bail." A judge has the discretion in many cases to release a criminal defendant from custody without requiring the posting of any monetary bail simply on his or her own personal recognizance and promise to make all court appearances and obey all laws for the duration of the case. This

may occur if a judge is satisfied that a criminal defendant is not a flight risk, or a danger to himself or herself or the public, and has no significant criminal record.

"Petit Jury" – A jury of twelve persons in a felony case, or six persons in a misdemeanor case, who are empanelled to hear witnesses and consider evidence in order to decide the guilt or innocence of the defendant. Compare with a grand jury, which consists of eighteen persons. See "Grand jury."

"Plea" - See "Guilty plea."

"Plea Bargain" – See "Guilty plea."

"Pleadings" – The formal, written legal arguments and statements of the prosecutor and defense in a case that are filed with the court. Most pleadings are open for public inspection. Exceptions are pleadings which are sealed by order of the court or by a law e.g., pleadings involving juveniles or which contain medical record or psychiatric information.

"Preliminary Hearing" – A criminal defendant in Alaska charged with a felony crime has the right to a preliminary hearing within 10 days from his initial appearance before the magistrate if he or she is in custody, or 20 days if released on bail, and has not had their case presented to a grand jury. The purpose of the preliminary hearing is to quickly require the state to offer evidence to a judge that establishes that probable cause exists to believe that a felony crime has occurred and that the defendant committed it. The 10/20-day period may be extended with the consent of the defendant. If such time has elapsed without a preliminary hearing or grand jury action, the defendant is entitled to have his or her case dismissed without prejudice to the state refilling it again at a later time. In Alaska, prosecutors rarely conduct preliminary hearings for a number of sound legal reasons. Instead, felony cases are presented directly to the grand jury.

"Presentence Report" – The Alaska Department of Corrections is responsible for conducting a careful investigation into the defendant's background, and preparing a written report of their findings, following a conviction for most felony crimes. The report will address such topics as the defendant's prior criminal history, employment history, military service, family background, and so forth. Crime victims have the right to have included within the presentence report a statement about how the crime has impacted them and their family. The report is then provided to the prosecutor, the defense and to the sentencing judge. Victims have important rights to participate at any sentencing hearing. Unless those rights are invoked by the crime victim, they are forfeited. See "Listing of Your Rights" elsewhere in this web site.

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"Presumptive Sentence" - When a criminal defendant is convicted of a crime in Alaska, that person is subject to being sentenced by a judge. Unlike some other states, juries do not recommend or impose sentences in Alaska. A sentence usually consists of a period of confinement (actual jail time to serve) or suspended jail time (suspended on conditions required by the judge) or probation or any combination of these terms. If a crime victim has suffered an economic loss, the law permits the judge to also require the defendant to pay restitution. In deciding the terms of a sentence, the judge has considerable discretion but must always take into account a number of sentencing factors. Some of those factors are: the need for protecting the public, community condemnation of the offender, the rights of victims of crimes, restitution from the offender and the principle of reformation. The judge who sentences a convict is also limited by a number of additional factors such as the statutory maximum and/or minimum sentence imposed by the applicable statute, and the sentencing guidelines established by appellate courts, which set ranges of permissible sentences for persons convicted of similar crimes. In order to ensure that certain particularly dangerous or repeat felony offenders receive a jail term that is commensurate with the seriousness of their offense, their prior criminal history of felony convictions, and the danger they pose to the public, the legislature has passed what are termed presumptive sentencing statutes. These laws limit the discretion sentencing judges have and require them to impose established, pre-set jail terms that may not be suspended. They also do not allow for a person sentenced under such laws to be paroled. A person sentenced under Alaska's presumptive sentencing statutes may have their fixed sentence increased or decreased depending upon the presence or absence of aggravating or mitigating factors, which must be proved by the lawyers at the time sentence is imposed. Look elsewhere within this document for a listing of the statutory "aggravators" or "mitigators" which a judge may consider when sentencing a defendant under Alaska's presumptive sentencing statutes. A presumptive sentence must be increased above the pre-set jail term dictated by the legislature if the prosecutor can prove that the defendant's conduct involved aggravating factors. On the other hand, the presumptive sentence must be decreased if the defense attorney can establish the presence of mitigating factors in the defendant's criminal conduct.

"Probation" – A sentence which permits a convicted person to remain out of custody, usually as part of a suspended jail term, subject to supervision of a probation officer. The probationer is usually required to abide by numerous conditions of probation, which often include a requirement to pay restitution to the victim. In the event a probationer violates a condition of probation, the probation officer may file a petition with the court to revoke probation. If challenged, a probationer has a right to a hearing at which the state must prove the violation. If probation is revoked, a probationer may be sentenced to a period of incarceration.

"Prosecutor" – The attorney who represents the State of Alaska in a criminal prosecution. Sometimes the prosecutor is called the DA or District Attorney.

"Sentence" – A court order which is pronounced upon a defendant's conviction. See "presumptive sentence," "probation," and "suspended imposition of sentence."

"Speedy Trial Rule" – Generally, criminal defendants in Alaska are entitled by law to have their case tried within 120 days from the date they are arrested or served with a document charging them with a crime. There are a number of exceptions to this rule that have the effect of extending the 120-day period. Some examples are when a defendant asks the court for a delay in the commencement of the trial in order to prepare a defense, the period of delay resulting from other proceedings involving the defendant, or delay which results when the defendant files motions with the court to have his case dismissed or evidence suppressed to name a few. It is not unusual for many months to elapse between the filing of charges and the trial in major prosecutions such as murder, sexual assault and crimes involving similar serious allegations.

"Subpoena" – A written order which commands the appearance of the named person to appear at a certain time and place to give testimony in connection with a certain case. A subpoena *duces tecum* is a similar order that commands a person to appear at a certain time and place to produce documents or other material described in the subpoena.

"Suppression Hearing" – A pretrial hearing in criminal cases in which the defendant seeks to obtain a court order to prevent the prosecutor from introducing, or having the state's witness mention, evidence of the defendant's guilt before the trial jury. The basis for the motion is often the claim that police seized the questioned evidence illegally. The underpinning for this court made rule of law, which is called the exclusionary rule, is the notion that police should not be permitted to break the law in order to enforce it; that by preventing use of the admittedly relevant but tainted evidence the police will be deterred from such unlawful conduct in future investigations whereby the rights of citizens will be preserved.

"Suspended Imposition of Sentence" – Sometimes referred to as an "SIS", this sentence is not really a sentence at all. Instead, it is a court order that postpones or defers the actual imposition of a sentence in a criminal case until a later date, hence use of the term "suspended." During the interim, the convicted defendant is placed on probation and usually required to abide by conditions of probation, often under the supervision of a probation officer. In the event a probationer violates a condition of probation, the probation officer may file a

petition with the court to revoke probation and impose sentence. If challenged, a probationer has a right to a hearing at which the state must prove the violation. If probation is revoked, a probationer will be sentenced by the court. In that event the judge is free to impose any lawful sentence that might have been imposed initially. SIS probationers have a significant incentive to stay out of trouble. If the defendant is able to do so, their conviction is set aside and their criminal record remains clean.

"Venue" – The geographic location within the state where a crime is alleged to have been committed. The law requires that a defendant be tried in the general area in which the crime is alleged to have taken place. This is to ensure that the defendant's jury is a representative cross-section of the community that was impacted by the crime.

"Verdict" – A formal written finding of fact by the trial jury following a trial. There are two possible verdicts in criminal cases: "guilty" or "not guilty." In either case all jurors must be unanimous in their finding. There are 12 jurors in felony trials and 6 jurors for misdemeanor cases.